

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

77-60008

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

In the Matter of the Return of
Illegally Seized Property of:

STREETWORKERS, INC.

STREETWORKERS, INC.,

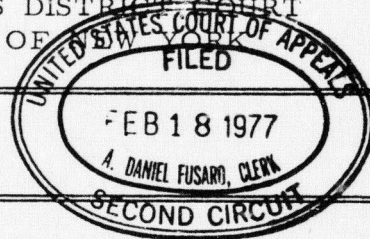
Petitioner-Appellant,

UNITED STATES OF AMERICA,

Respondent-Appellee.

ON APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX



DELSON & GORDON
Attorneys for Petitioner-Appellant Streetworkers, Inc.
230 Park Avenue
New York, New York 10017

ROBERT B. FISKE, JR.
United States Attorney
Attorney for Respondent-Appellee United States of America
One St. Andrews Plaza
New York, New York 10007

PAGINATION AS IN ORIGINAL COPY

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FD-15-02 PLANNED BEFORE INTERESTS & RIGHTS OF OWNERS PROPERTY (31 GOVT OR COMMISSIONER)

M 18

DATE	FILINGS--PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
c. 10-74	IN RE: CERTAIN DOCUMENTS SEIZED BY THE OFFICE OF THE US ATTY. S.D.N.Y.- Filed order that, on or before 12-10-74-the US Atty. for the SDNY produce for inspection by Western Racing, Inc. portions of records of Jacwin & Costa, Inc., previously subpoenaed by him in a criminal investigation stock- holders of Western Racing, Inc.--Metzner, J.(consented to)	
c. 6-76	IN RE: RETURN OF ILLEGALLY SEIZED PROPERTY OF STREETWORKERS, INC.- Filed affdvt. & notice of motion for an order directing that books & records be turned over to the New York City Dept. of Investigation pursuant to a subpoena duces tecum of 6-26-74- ret. 12-14-76-Room 506	
ec. 6-76	IN RE: RETURN OF ILLEGALLY SEIZED PROPERTY OF STREETWORKERS, INC.- Filed Memorandum of law	
Dec 19-76	IN RE: TO ILLEGALLY SEIZED PROPERTY OF STREETWORKERS, -- Filed memo endorsed op motion filed 12/14 /76, Motion denied, Grieco, J.	
Jan. 3-77	IN RE: TO ILLEGALLY SEIZED PROPERTY OF STREETWORKERS, --Filed notice of appeal of Streetworkers Inc. to the USCA for the second circuit from order of 12/15/76 (copy mailed to US Attorney)	
Jan. 28-77	IN RE: TO ILLEGALLY SEIZED PROPERTY OF STREETWORKERS, --Filed certified record of appeal & transmitted to US-CA second circuit 1-28-77 Grieco, J.	
	A TRUE COPY RAYMOND F. BURCHARDT, Clerk By <u>[Signature]</u> Deputy Clerk	
	BEST COPY AVAILABLE	

OK
F.F.
2/16/77

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

In the Matter of the Return of
Illegally Seized Property of:

Misc. No. 18-65

NOTICE OF MOTION

STREETWORKERS, INC.

- - - - -x

S I R S :

PLEASE TAKE NOTICE, that upon the affirmation of Martin H. Weisfuse dated November 30, 1976, the exhibits annexed thereto, Streetworkers, Inc., hereby moves this Court at Part I thereof at the Federal Courthouse, Foley Square, Room 506, New York, New York on December ¹⁴~~13~~, 1976 at 10:00 A.M. for an order directing that books and records of Streetworkers, Inc. which were turned over to the New York City Department of Investigation pursuant to a subpoena duces tecum on June 26, 1974 and which are now in the possession of the U.S. Attorney be suppressed and returned to Streetworkers, Inc. forthwith pursuant to Federal Rules of Criminal Procedure 41(e) and pursuant to the inherent right of this Court to discipline its officers and provide for equitable relief.⁵

Dated: New York, New York
November 30, 1976

DELSON & GORDON

By S/

TO: U.S. ATTORNEY for the
Southern District of New York
Federal Courthouse
Foley Square
New York, New York 10007

Attorneys for Streetworkers, Inc.
Office & P.O. Address
230 Park Avenue
New York, New York 10017
(212) 686-8030

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

In the Matter of the Return of
Illegally Seized Property of:

Misc. No. 18-65

STREETWORKERS, INC.

AFFIRMATION

- - - - -x

STATE OF NEW YORK)
 :
COUNTY OF NEW YORK)

MARTIN H. WEISFUSE, an attorney duly admitted to practice law in the State of New York affirms under penalty of perjury.

I am an attorney associated with the law firm of Delson & Gordon, attorneys for Streetworkers, Inc. and make this affirmation in support of the instant application for the return of the books and records of Streetworkers, Inc. which on information and belief are currently in the possession of the United States Attorney for the Southern District of New York.

On June 26, 1974 Streetworkers, Inc. pursuant to subpoena duces tecum over its books and records to

the New York City Department of Investigation. A copy of the receipt for these records is annexed as Exhibit "A". To date these books have not been returned to the petitioner. On October 16, 1975 we requested the return of these documents in a letter addressed to the attention of Sal Ranieri of the Department of Investigation. A copy of this letter is annexed herein as Exhibit "B". Not having received the courtesy of a response to that letter, we again wrote to Mr. Ranieri on October 27, 1975, a copy of that letter being annexed as Exhibit "C". In a letter dated October 30, 1975 annexed herein as Exhibit "D", we were advised by Deputy Commissioner Edward Hammock that these records had been turned over to the United States Attorney's Office for the Southern District of New York. Assistant United States Attorney David Cutner who was in charge of the matter involving these records was contacted and on January 5, 1976 a formal request was made to him for the return of these records. A copy of this correspondence is annexed herein as Exhibit "E". Mr. Cutner advised us that these records are needed for an investigation and will not be returned to us at that time. He refused to advise us when these records would be returned. On November 19, 1976 we called Assistant United States Attorney Steven Schatz whom we were advised took over the matter from Mr. Cutner. Mr. Schatz informed us that the records are still needed and would not tell us when we could expect their return.

It has been almost two and a half years now since these records were received by the Department of Investigation. No criminal action has been taken against Streetworkers or its officers nor are we informed of any pending Grand Jury investigation. Our client advises that these records are essential to enable Streetworkers to file the necessary tax statements and to perform its corporate functions. There can be no legitimate reason for the government to hold these documents for such an unconscionable period of time.

It is respectfully submitted that the U.S. Attorney had no right to these records in the first instance and his retention is unlawful. See Memorandum of Law.

No prior application for the relief requested herein has been made.

WHEREFORE, it is respectfully requested that an order be granted to direct the United States Attorney to return all books and records in its possession to Streetworkers, Inc., and to suppress its use as evidence.

Dated: New York, New York
November 30, 1976

Martin H. Weisfuse

CITY OF NEW YORK
DEPARTMENT OF INVESTIGATION

NAME _____

CASE NO. _____

DATE

June 26, 1974

RECEIVED FROM:

Structure, Inc (S. C. Hurvath)

RETURNED TO: _____

THE FOLLOWING:

- ① Red "C I C C" ledger book
- ① Black "Streetwalkers" ledger book

RECEIPT

S. R. R. R.

SIGNATURE

Sgt. J. J. R. R.

TITLE

October 16, 1975

Sal Ranieri, Esq.
Department of Investigation
111 John Street
New York, New York 10038

Re: Streetworkers, Inc.

Dear Mr. Ranieri:

We are the attorneys for Streetworkers, Inc.

As per our telephone conversation yesterday,
I am requesting that you return to Streetworkers, Inc.
their books and records presently in your possession.

Kindly advise us as to what arrangements can
be made for the return of these documents.

Thank you for your cooperation.

Very truly yours,

DELSON & GORDON

Martin H. Weisfuse

MHW:mal

October 27, 1975

Sal Ranieri, Esq.
Department of Investigation
111 John Street
New York, New York 10038

Re: Streetworkers, Inc.

Dear Mr. Ranieri:

On October 16, 1975 we wrote to you with reference to the above named. Enclosed is a copy of our letter to you.

To date we have not received a reply and would be pleased to hear from you as soon as possible.

Thank you for your cooperation.

Very truly yours,

DELSON & GORDON

Martin H. Weisfuse

MHW:mal



DEPARTMENT OF INVESTIGATION

111 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 267-6000

NICHOLAS SCOPPETTA
CommissionerStanley N. Lupkin
Edward R. Hammock
Deputy Commissioners

In Reply Refer To

756-74

October 30, 1975

Martin H. Weisfuse, Esq.
Delson & Gordon
230 Park Avenue
New York, N. Y. 10017

RE: Streetworkers, Inc.

Dear Mr. Weisfuse:

Your letter of October 27, 1975 and the attachment letter were turned over to me for reply. As you may know, Mr. Ranieri is presently on leave from this office and is on special assignment to the Brooklyn District Attorney's Office. I have made contact with him and am informed that all records relating to Streetworkers, Inc. have been turned over by this Department to the United States Attorney's office for the Southern District of New York. The Assistant-United States Attorney who is in charge of this matter is David Cutner. You should contact him in connection with your efforts to obtain a return of Streetworkers books and records.

Yours truly,

A handwritten signature in cursive script, reading "Edw. R. Hammock".

Edward R. Hammock
Deputy Commissioner

January 5, 1976

David Cutner, Esq.
Assistant U.S. Attorney
Office of the U.S. Attorney
for the Southern District of New York
1 St. Andrew's Plaza
New York, New York

Re: Streetworkers, Inc.

Dear Mr. Cutner:

We are the attorneys for Streetworkers Inc.
We are advised by the New York City Department of
Investigations that you are in possession of the books
and records of our client. Please call us upon receipt
so that we may make arrangements to secure and return
of these books and records.

Very truly yours,

DILSON & GORDON

Martin H. Weisfuse

MHW:mal

NOTICE OF ENTRY

Sub-Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

Dated,

Yours, etc.,

DELSON & GORDON

Attorneys for

Office and Post Office Address
230 Park Avenue
NEW YORK, N. Y. 10017

To

Answer(s) for

NOTICE OF RETURN

Sub-Please take notice that an order

of which the within is a true copy will be presented for judgment to the Hon.

one of the judges of the within named Court, at

City the day of.

Dated,

Yours, etc.,

DELSON & GORDON

Attorneys for

Office and Post Office Address
230 Park Avenue
NEW YORK, N. Y. 10017

To

Answer(s) for

BEST COPY AVAILABLE

Index No. 111-18-65
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Return of
Illegally Seized Property of:

STRECHENKERS, INC.

NOTICE OF RETURN

DELSON & GORDON

Attorneys for STRECHENKERS, INC.

Office and Post Office Address

230 Park Avenue
NEW YORK, N. Y. 10017
(212) 670-6800

To

Answer(s) for

Service of a copy of the within

Dated,

Answer(s) for

Sub-Please take notice that the within is a true copy of a duly entered in the office of the clerk of the within named court on

Notion denied. The Government is serving a subpoena and the Government has offered to make copies available to Stretchers, Inc. to examine and practice problems re this. Let's see if documents diagram and we can re these practical and the Government is serving to.

Stretchers, Inc. is serving a subpoena and the Government has offered to make copies available to Stretchers, Inc. to examine and practice problems re this. Let's see if documents diagram and we can re these practical and the Government is serving to.

Handwritten signature and notes at the bottom of the page.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Return of
Illegally Seized Property of:

Misc. 18-65

STREETWORKERS, INC.

ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF
NEW YORK

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Motion denied. The Government is serving a Grand Jury subpoena, and the Government has offered to make copies available to Streetworkers, Inc. to satisfy any practical problems re the latter's need for documents. If agreement cannot be reached re these practical matters, further relief may be sought

So Ordered:

/s/

Thomas P. Griesa
U.S.D.J.

Dated: December 15, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
In the Matter of the Return of
Illegally Seized Property of:

Misc. No. 18-65

NOTICE OF APPEAL

STREETWORKERS, INC.

- - - - -x
Notice is hereby given that Streetworkers, Inc.,
the petitioner above named, hereby appeals to the United
States Court of Appeals for the Second Circuit from an
Order of the District Court dated December 15, 1976
denying petitioner's application for its return of books
and records in the possession of the United States
Attorney for the Southern District of New York.

Dated: New York, New York
December 30, 1976

DELSON & GORDON

By Alvin H. Meadler
A Member of the Firm

Attorneys for Petitioner
230 Park Avenue
New York, New York 10017
(212) 686-8030

TO: U.S. ATTORNEY for the
Southern District of New York
Federal Courthouse
Foley Square
New York, New York 10007

COPY RECEIVED
FEB 2 1977
U.S. ATTORNEY
SOUTHERN DISTRICT
NEW YORK
FISKE JR.

RECEIVED
FEB 18 1977
OFFICE OF THE
SECRETARY OF THE
NAVY